

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6516

BILL NUMBER: HB 1072

NOTE PREPARED: Feb 5, 2004

BILL AMENDED: Feb 4, 2004

SUBJECT: Regulated Explosives.

FIRST AUTHOR: Rep. Bischoff

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill provides that a person may not use a regulated explosive (other than commercially manufactured black powder or consumer fireworks) unless the person has been issued a license by the State Fire Marshal. It provides that the Fire Prevention and Building Safety Commission shall adopt rules to govern the use of regulated explosives. It also makes it a crime to violate those rules. The bill exempts entities that engage in surface coal mining operations from the regulated explosive license requirement.

Effective Date: July 1, 2004.

Explanation of State Expenditures: (Revised) *Licensing Provision:* The Fire Prevention and Building Safety Commission must adopt rules to govern the use of a regulated explosive and establish requirements for the issuance of a license for the use of a regulated explosive. Relicensure must occur every three years after the initial issuance of a license. Continuing education is a condition of relicensure. Applicants must also submit a fee for licensure and relicensure. The State Fire Marshal's Office must carry out the licensing and relicensing program under the rules adopted by the Commission.

In order to implement the program, the Office of the State Fire Marshal would need to hire one clerk, buy a computer and other office equipment, and provide office space. Start-up costs are estimated at \$40,000 with ongoing costs estimated at around \$33,000 per year. However, the bill allows the Commission to establish fees that would could be designed to cover costs.

The Fire Prevention and Building Safety Commission should be able to absorb any additional expenses associated with adopting rules given its current staff and budget.

Penalty Provision: A person who recklessly violates a rule regarding the use of a regulated explosive commits a Class A misdemeanor. However, the offense is a Class D felony if the violation of the rule proximately causes bodily injury or death. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$26,825 in FY 2002. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Licensing Provision:* The bill provides that in establishing rules, the Fire Prevention and Building Safety Commission must include a fee for licensure and relicensure. The fee would probably be designed to cover costs; however, how much revenue the license fee would generate is indeterminable because the number of applications for the license is indeterminable.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. A Class A misdemeanor is punishable by up to one year in jail. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Fire Prevention and Building Safety Commission, the State Fire Marshal's Office, and the Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Mara Synder, State Fire Marshal's Office, 233-5341; Indiana Sheriffs Association; Department of Correction.

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